

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

THE MEDICAL PROTECTIVE COMPANY,	)	
	)	
Plaintiff(s),	)	
	)	
vs.	)	Case No. 4:06CV01639-ERW
	)	
JAMES E. BUBENIK, D.M.D., et al.,	)	
	)	
Defendant(s).	)	

**ORDER**

This matter comes before the Court on Plaintiff The Medical Protective Company's Motion to Strike Defendants James E. Bubenik, D.M.D. and James E. Bubenik, D.M.D., P.C.'s Counterclaim and Limit Discovery [doc. #24].

In a hearing held before this Court on this date, Defendant James E. Bubenik, D.M.D.'s counsel Mr. Scott Rosenblum represented to this Court that he would advise his client to assert his right under the Fifth Amendment to remain silent, and not provide testimony in the above styled action. Mr. Rosenblum represents Defendant James E. Bubenik in an ongoing criminal investigation. In view of the pending motion to strike, this Court orders Dr. James E. Bubenik to submit a written declaration that on advice of counsel he will rely upon his rights under the Fifth Amendment and under that right will not be testifying in this case, or that he will reject the recommendation of counsel and affirmatively state that he will not rely upon his rights under the Fifth Amendment, and will provide testimony in this case.

**IT IS HERE BY ORDERED** that Defendant James E. Bubenik, D.M.D. submit a written declaration that on advice of counsel he will rely upon his rights under the Fifth Amendment and

under that right will not be testifying in this case, or that he will reject the recommendation of counsel and affirmatively state that he will not rely upon his rights under the Fifth Amendment, and will provide testimony in this case.

Dated this 26th Day of April, 2007.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written over a horizontal line.

E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE